

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

BLUE SPIKE, LLC,

Plaintiff,

V.

TEXAS INSTRUMENTS, INC., *et al.*,

Defendants.

Civil Action No. 6:12-CV-499-LED

JURY TRIAL DEMANDED

PLAINTIFF'S REPLY IN RESPONSE TO
DEFENDANT IMAGEWARE SYSTEMS, INC'S COUNTERCLAIMS

Plaintiff Blue Spike, LLC (“Blue Spike”) files this Reply to the Counterclaims of Defendant ImageWare Systems Inc (“ImageWare” or “Defendant”) (Dkt. No. 1013) as follows.

All allegations not expressly admitted or responded to by Blue Spike are denied.

COUNTERCLAIMS

THE PARTIES

1. Plaintiff admits the allegations of Paragraph 1.
2. Plaintiff admits the allegations of Paragraph 2.

JURISDICTION AND VENUE

3. Plaintiff admits that this Court has jurisdiction over ImageWare's counterclaims and that a justiciable controversy exists between the parties. To the extent the remainder of the text of Paragraph 3 can be construed as an allegation that ImageWare is entitled to the relief sought in these counterclaims, Plaintiff denies the same.
4. Plaintiff admits the allegations of Paragraph 4.
5. Plaintiff admits the allegations of Paragraph 5.

**COUNT ONE: DECLARATORY JUDGMENT OF
NON-INFRINGEMENT OF THE '175 PATENT**

6. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 5 above.
7. Plaintiff admits that is has made the allegations against ImageWare alleged in Paragraph 7; Plaintiff denies all remaining allegations.
8. Plaintiff denies that Defendant is entitled to the relief sought in Paragraph 8.

**COUNT TWO: DECLARATORY JUDGMENT OF
INVALIDITY OF THE '175 PATENT**

9. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 8 above.
10. Plaintiff denies the allegations of Paragraph 10.
11. Plaintiff denies that Defendant is entitled to the relief sought in Paragraph 11.

**COUNT THREE: DECLARATORY JUDGMENT OF
NON-INFRINGEMENT OF THE '494 PATENT**

12. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 11 above.
13. Plaintiff admits that is has made the allegations against ImageWare alleged in Paragraph 13; Plaintiff denies all remaining allegations.
14. Plaintiff denies that Defendant is entitled to the relief sought in Paragraph 14.

**COUNT FOUR: DECLARATORY JUDGMENT OF
INVALIDITY OF THE '494 PATENT**

15. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 14 above.
16. Plaintiff denies the allegations of Paragraph 16.
17. Plaintiff denies that Defendant is entitled to the relief sought in Paragraph 17.

**COUNT FIVE: DECLARATORY JUDGMENT OF
NON-INFRINGEMENT OF THE '700 PATENT**

18. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 17 above.

19. Plaintiff admits that is has made the allegations against ImageWare alleged in Paragraph 13; Plaintiff denies all remaining allegations.

20. Plaintiff denies that Defendant is entitled to the relief sought in Paragraph 20.

**COUNT SIX: DECLARATORY JUDGMENT OF
INVALIDITY OF THE '700 PATENT**

21. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 20 above.

22. Plaintiff denies the allegations of Paragraph 22.

23. Plaintiff denies that Defendant is entitled to the relief sought in Paragraph 23.

**COUNT SEVEN: DECLARATORY JUDGMENT OF
NON-INFRINGEMENT OF THE '472 PATENT**

24. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 23 above.

25. Plaintiff admits that is has made the allegations against ImageWare alleged in Paragraph 25; Plaintiff denies all remaining allegations.

26. Plaintiff denies that Defendant is entitled to the relief sought in Paragraph 26.

**COUNT EIGHT: DECLARATORY JUDGMENT OF
INVALIDITY OF THE '472 PATENT**

27. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 26 above.

28. Plaintiff denies the allegations of Paragraph 28.

29. Plaintiff denies that Defendant is entitled to the relief sought in Paragraph 29.

REQUEST FOR RELIEF

Plaintiff denies that Defendant is entitled to any of the relief it requests.

PLAINTIFF'S PRAYER FOR RELIEF

In addition to the relief requested in Plaintiff's Original Complaint, Plaintiff respectfully requests a judgment against Defendant as follows:

- (a) That Defendant take nothing by its Counterclaims;
- (b) That the Court award Plaintiff its costs and attorneys' fees incurred in defending against these Counterclaims; and
- (c) Any and all further relief for the Plaintiff as the Court may deem just and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Randall T. Garteiser, am the ECF User whose ID and password are being used to file this document. I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this day. Pursuant to Federal Rule of Civil Procedure 5, this document was served via U.S. Mail and electronic means to counsel for Defendant that are not receiving this document via CM/ECF.

/s/ Randall T. Garteiser
Randall T. Garteiser